REMARKS

Claims 1-22 are presently pending in the application. Claims 1, 9, 10, 11, 12, 20, 21 and 22 have been amended. No new matter has been added and support for the amendments to the claims can be found in the specification and drawings. In view of the above amendments and arguments presented hereinbelow, Applicant respectfully submits that these claims are now in condition for allowance.

Claim Rejections -- 35 U.S.C. § 103(a)

Claims 1-6, 9-17 and 20-22 stand rejected under Section 102 as being unpatentable over Yoneda U.S. Patent No. 6,002,832 ("Yoneda") in view of Kalluri et al. U.S. Patent No. 5,937,331 ("Kalluri"). Applicant respectfully traverses this rejection and submits that the combination of Yoneda and Kalluri fails to disclose or suggest the claimed invention.

In accordance with an aspect of the invention as set forth in representative Claim 1, as amended, there is provided a method for transmitting a performance via a network, comprising:

> receiving performance information including one or more mixing commands via the network at a local performance reproduction device connected to the network;
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> retrieving performance information stored in local storage;
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> composing a performance by mixing the performance information received from the network with the locally stored performance information based on the one or more mixing commands; and
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> transmitting one or more portions of the performance.

As described in the specification:

> Several examples of specific operations performed using the above-described network 100, performance transmitter 200, performance reproduction devices 302 and 304, and storage devices 402 and 404 are described below. In a first example, the performance transmitter 200 is a radio station, the performance reproduction device 302 is an enhanced radio, and the storage device 402 has been pre-loaded with a library of songs. A radio announcer speaks into a microphone, which is included in the performance input device 220 of Fig. 2, and says, for example, "Here are the three most-requested songs of this week." The announcer then pushes one or more buttons, for example, on the command input

device 230, and a command signal sequence including a Play 1 command appending the announcer's real-time performance is generated and transmitted to the network 100.

The announcer's voice information announcing "Here are the three most-requested songs of this week" is output through the performance output device 320, corresponding in this case to a radio speaker, based on the Play 1 command. *The remaining command signal sequence is executed by retrieving the three songs from the storage device 402* and outputting them to the radio speaker in the order indicated by the command signal sequence.

The radio station may transmit addition program information any time before the reproduction of the songs is completed. For example, the radio announcer may announce, "We will be back with more music after these messages from our sponsors" and then issue commands for reproduction of pre-recorded commercials or the like. *The corresponding commands are transmitted to the performance reproduction device 302 prior to the actual performance output time.* Thus, the radio station is provided great flexibility in performance production because the time of performance production is not tightly coupled to the time of performance output.

In a second example, the performance transmitter 200 may be a television station, and the performance reproduction device 302 may be an enhanced television set. The user watches a new episode of a weekly program. While the user is watching the new episode, the new episode is simultaneously recorded to the storage device 402. Months later, it is decided to re-run the episode. *However, rather than re-transmitting the entire episode, the television station transmits one or more command signals to the enhanced television set, instructing the enhanced television set to retrieve and output the episode from the storage device 402.*

In a third example, the performance transmitter 200 is a radio station and the performance reproduction device 302 is an enhanced car radio. At 1:00 AM, the user is asleep at home in Washington, D.C., and is not listening to the car radio. However, the radio station receives world news information from the British Broadcasting Company in Great Britain, and automatically stores this information to the storage device 402, along with one or more commands. Later, at 7:30 AM, while driving to work, the user listens to the car radio. *Based on the previously transmitted one or more commands, the car radio retrieves and reproduces the information that was stored earlier that morning beginning at 1:00 AM. In this manner, information may be transferred to the car radio at low network usage times and any time prior to the generation of a performance.* Furthermore, from this example it is seen that a real-time

radio announcer is not required. Specification at page 20, line 17- page 21, line 30.

The foregoing describes how performance information *including one or more mixing commands is received from the network.* The mixing commands may be, for example, the command signal sequence to retrieve a plurality of songs from the storage device in the first example discussed above. Thus, the three songs "played" on the radio station are actually stored on a storage device 402 and retrieved from the storage device 402. In the second example, a new episode of a television program is recorded to the storage device 402 such that when the program is re-run at a later time, it is retrieved from the storage device in response to command signals received over the network from the television station. In the third example, a radio program is stored along with one or more commands such that it can be replayed from the storage device 402 at a subsequent time, thus enabling the information to be downloaded to the storage device 402 from the network during periods of low network usage. This practice is neither disclosed nor suggested in Yoneda.

Yoneda relates to an apparatus for recording and reproducing data and more specifically, one that provides for reproducing a program from the beginning while continuing to record the same program from some point in the middle of the broadcast. This is referred to as a "time-shift" reproduction function. See Yoneda at Col. 7, lines 32-37. Although Yoneda discloses an apparatus for time shifting a broadcast, Yoneda does not teach or suggest the claimed steps of "receiving performance information including one or more mixing commands via the network at a local performance reproduction device connected to the network; *retrieving performance information stored in local storage*; [and] composing a performance by *mixing the performance information received from the network with the locally stored performance information based on the one or more mixing commands.*" In Yoneda, the user of the device merely elects to start a performance from the beginning while the performance is still being recorded.

The Examiner asserts that Kalluri "...teaches receiving one or more mixing commands via the network (Fig. 1, column 2, lines 24-41, column 5, lines 18-30 and

column 6, lines 10-17); mixing stored information based on the one or more mixing commands (column 2, lines 42-61 and column 5, lines 42-61). Therefore it would have been obvious to one of ordinary skill in the art at the time the invention was made to further modify the apparatus and method for recording and reproducing data of Yoneda by receiving one or more mixing commands via the network; mixing stored information based on the one or more mixing commands because the commands help alter and create the performance based on system or user request so the performance is presented accurately." See Office Action at page 2, ¶ 2 – page 3. Applicant respectfully submits that this contention is misplaced.

Kalluri discloses a protocol and system for inserting interactive program content into a television signal from a remote network. See Col. 1, lines 10 - 12. In particular, Kalluri discloses the following:

> In one embodiment, a digital broadcast station is configured to turn around and add interactive programming to a television signal originally conveyed by a remote network. While conveying the television signal, *the remote network inserts trigger commands within the vertical blanking intervals (VBIs) of the television signal to control the loading and playing of the interactive program at the broadcast station.* The protocol associated with the trigger commands allows commands to be repeated to thereby ensure that the interactive program is controlled correctly, even in the event that an original command was not received or was corrupted in the transmission. A given command may be identified as being repeated by setting a flag within the command.
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> *The television signal with inserted trigger commands is modulated and transmitted from the remote network* via a satellite uplink or other transmission mechanism. This combined signal is correspondingly received at the digital broadcast station where it is digitized and routed through a video network for channel assignment and other processing. From the video network, the digitized television signal is provided to a VBI decoder which extracts the received trigger commands. The extracted trigger commands are provided to a server (i.e., an interactive program source) which controls the loading or playing of an interactive program in accordance with the trigger commands. The remainder of the digitized television signal is provided to a video encoder where it is compressed. An AVI (audio-video interactive) generation unit of the digital broadcast station then combines the compressed television signal and the interactive program to form an AVI signal to be broadcast to end users via a satellite uplink. The AVI signal may be formed by time-multiplexing packetized

audio, video and interactive components of the AVI signal. Col. 2, lines 28 – 61 (emphasis added).

In view of the foregoing, Kalluri teaches that a television signal originating at a remote network may be modified to include trigger commands to control the loading and playing of an interactive program at the broadcast station. This is completely unrelated to the present invention. As discussed above, the present invention provides a system and method whereby a user receives performance information over a network and a performance is generated at a local performance reproduction device by combining the performance information received from the network with locally stored performance information based on mixing commands received over the network with the performance information. Kalluri fails to disclose, suggest or mention anything relating to generating a performance by combining information broadcast over a network with locally stored information in the manner claimed by Applicant. Accordingly, it is respectfully submitted that Kalluri fails to remedy the deficiencies in the Yoneda disclosure, and that claims 1-6, 9-17 and 20-22 are patentable over the combination of Yoneda and Kalluri.

Dependent claims 7 and 18 stand rejected under Section 103(a) as being unpatentable over Yoneda in view of Agraharam U.S. Patent No. 6,389,471 ("Agraharam"). Applicant is assuming that these claims are also rejected based on Kalluri, as the base claims 1 and 12 stand rejected on the combination of Yoneda and Kalluri (see above). Applicant hereby reiterates the above argument distinguishing the combination of Yoneda and Kalluri from the present invention and respectfully submits that the addition of Agraharam fails to remedy the deficiencies in the combination of Yoneda and Kalluri.

Agraharam discloses a system and method that enables "...an internet user to act as a broadcast session conductor by assembling audiovisual information in a multimedia document, and broadcasting that information to a predetermined group for simultaneous viewing." See Abstract. There is nothing in Agraharam that discloses or suggests the practice of generating a performance by mixing performance information received over a network with locally stored performance information. Accordingly, Agraharam fails to remedy the deficiencies in the combination of Yoneda and Kalluri.

Dependent claims 8 and 19 stand rejected under Section 103(a) as being unpatentable over Yoneda in view of Agraharam as applied to claims 7 and 18 above, and further in view of Raz U.S. Patent No. 6,292,827 ("Raz"). Here again, Applicant points out that the base claims stand rejected over the combination of Yoneda and Kalluri, so Applicant is assuming that these claims are actually rejected on the combination of all four references: Yoneda, Kalluri, Agraharam and Raz. Applicant hereby reiterates the above argument distinguishing the claimed invention from the combination of Yoneda, Kalluri and Agraharam, and further submits that the addition of Raz fails to remedy the deficiencies in combination of the first three references.

The Examiner cites Raz for the teaching of "receiving a pause request" (column 1, lines 59-62). That section of Raz merely states that a "request broker system permits an exchange of information between the client terminals and the servers through communication[s, sic] paths between each of the terminals and the servers." Raz at Col. 1, lines 59-62. This is unrelated to the present invention. Moreover, there is no teaching or suggestion here of mixing performance information received from a network with locally stored performance information. As discussed above, none of the cited references suggest this practice. Accordingly, it is submitted that Raz fails to remedy the deficiencies in the combination of Yoneda, Kalluri, and Agraharam, and that even if, assuming *arguendo*, all four of these references would be properly combinable, such combination still would not reach the claimed invention.

In view of the foregoing, Applicant submits that claims 1-22 are in condition for allowance and allowance of these claims at an early date is solicited.

The Office is hereby authorized to charge any additional fees or credit any overpayments under 37 C.F.R. 1.16 or 1.17 to AT&T Corp. Account No. 01-2745. The Examiner is invited to contact the undersigned at (201) 224-7957 to discuss any matter concerning this application.

Respectfully submitted,
Evan Stephen Crandall
By:

Date: 5/26/04

Gary H. Monka
Registration No. 35,290
Attorney for Applicant

Canavan & Monka, LLC.
805 Partridge Drive
Bridgewater, New Jersey 08807
(201) 224-7957